IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8527 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

S.M. LAKDAWALA

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 8527 of 2001

MR IS SUPEHIA for Petitioner No. 1

MS HARSHA DEVANI, AGP for Respondent No. 1

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 07/01/2002

ORAL JUDGEMENT

#. Rule. Ms.Harsha Devani, learned AGP appears and waives service of rule for the respondent. With the consent of the parties, the matter is taken up for final

hearing today.

#. The petitioner, who is a retired Government servant, has filed this petition challenging the action of the respondent in not completing the departmental inquiry pending against the petitioner for which the chargesheet was issued on 31.1.2000. The petitioner has prayed that the Government should pay him interest at the rate of 18% on the amount of commuted pension and gratuity till the aforesaid amount is paid to him.

#. It is not in dispute that the departmental inquiry is pending against the petitioner and as per the averments made in the petition, the Inquiry officer in his report has found that the charges against the petitioner are not proved. The report is now lying with the State Government for passing the final order. It is not in dispute that till today no final decision is taken by the State Government one way or the other. Learned AGP Ms.Devani states that the Inquiry Officer has already submitted the report to the State Government, but the State Government has not passed any final order. She further states that the said instruction was received by her in November, 2001 and she is not aware, whether any final order is passed or not.

#. Considering the aforesaid facts and circumstances, it is directed that the State Government should take final decision in the departmental proceedings immediately, in any case, latest by 15.2.2002. It is further directed that, in case the petitioner is exonerated in the departmental proceedings, the department shall pay the interest payable to him for the delayed payment in accordance with law as well as considering the Government Resolutions. In case, the petitioner is exonerated, the appropriate order regarding giving him interest for withholding the amount of gratuity and commuted pension shall be passed as stated earlier in accordance with law as well as considering the Government Resolutions in this behalf simultaneously or at least within a period of one week from such order. It is also clarified that, in case, the petitioner is not exonerated, it will be open for the petitioner to challenge the said order in accordance with law.

#. The petition is disposed of on the aforesaid terms. Rule is accordingly partly made absolute with no order as to costs.

(P.B.Majmudar,J)
(pathan)